

§ 251.59

under Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761-1771); the Mineral Leasing Act of 1920 (30 U.S.C. 185); the National Historic Preservation Act of 1966 (16 U.S.C. 470h-2); or the Act of May 26, 2000 (16 U.S.C. 460l-6d).

(4) Recreation special use as defined in the Forest Service's directive system and requires 50 hours or less for Forest Service personnel to process, except for situations involving multiple recreation special use applications provided for in paragraph (c)(3) of this section. No monitoring fees shall be charged for a recreation special use authorization that requires 50 hours or less for Forest Service personnel to monitor.

(h) *Appeal of decisions.* (1) A decision by the authorized officer to assess a processing or monitoring fee or to determine the fee category or estimated costs is not subject to administrative appeal.

(2) A decision by an authorized officer's immediate supervisor in response to a request for substitution of an alternative fee category or alternative estimated costs likewise is not subject to administrative appeal.

(i) *Processing and monitoring fee schedules.* (1) The Forest Service shall maintain schedules for processing and monitoring fees in its directive system (36 CFR 200.4). The rates in the schedules shall be updated annually by using the annual rate of change, second quarter to second quarter, in the Implicit Price Deflator-Gross Domestic Product (IPD-GDP) index. The Forest Service shall round the changes in the rates either up or down to the nearest dollar.

(2) Within 5 years of the effective date of this rule, March 23, 2006, the Forest Service shall review these rates:

(i) To determine whether they are commensurate with the actual costs incurred by the agency in conducting the processing and monitoring activities covered by this rule and

(ii) To assess consistency with processing and monitoring fee schedules established by the United States Department of the Interior, Bureau of Land Management.

[71 FR 8913, Feb. 21, 2006]

36 CFR Ch. II (7-1-16 Edition)

§ 251.59 Transfer of authorized improvements.

If the holder, through death, voluntary sale, transfer, or through enforcement of a valid legal proceeding or operation of law, ceases to be the owner of the authorized improvements, the authorization terminates upon change of ownership. Except for easements issued under authorities other than § 251.53(e) and leases and easements under § 251.53(l) of this subpart, the new owner of the authorized improvements must apply for and receive a new special use authorization. The new owner must meet requirements under applicable regulations of this subpart and agree to comply with the terms and conditions of the authorization and any new terms and conditions warranted by existing or prospective circumstances.

[63 FR 65967, Nov. 30, 1998]

§ 251.60 Termination, revocation, and suspension.

(a) *Grounds for termination, revocation, and suspension—*(1) *Noncommercial group uses—*(i) *Revocation or suspension.* An authorized officer may revoke or suspend a special use authorization for a noncommercial group use only under one of the following circumstances:

(A) Under the criteria for which an application for a special use authorization may be denied under § 251.54(g)(3)(ii);

(B) For noncompliance with applicable statutes or regulations or the terms and conditions of the authorization;

(C) For failure of the holder to exercise the rights or privileges granted; or

(D) With the consent of the holder.

(ii) *Judicial review.* Revocation or suspension of a special use authorization under this paragraph constitutes final agency action, is not subject to administrative appeal, and is immediately subject to judicial review.

(iii) *Termination.* A special use authorization for a noncommercial group use terminates when it expires by its own terms. Termination of a special use authorization under this paragraph does not involve agency action and is not subject to administrative or judicial review.

(2) *All other special uses*—(i) *Revocation or suspension*. An authorized officer may revoke or suspend a special use authorization for all other special uses, except a permit or an easement issued pursuant to §251.53(e) or an easement issued under §251.53(l) of this subpart:

(A) For noncompliance with applicable statutes, regulations, or the terms and conditions of the authorization;

(B) For failure of the holder to exercise the rights or privileges granted;

(C) With the consent of the holder; or

(D) At the discretion of the authorized officer for specific and compelling reasons in the public interest.

(ii) *Administrative review*. Except for revocation or suspension of an easement issued pursuant to §251.53(e) or §251.53(l) of this subpart, revocation or suspension of a special use authorization under this paragraph is subject to appeal pursuant to 36 CFR part 214.

(iii) *Termination*. For all special uses except noncommercial group uses, a special use authorization terminates when, by its terms, a fixed or agreed-upon condition, event, or time occurs. Termination of a special use authorization under this paragraph does not involve agency action and is not subject to administrative or judicial review.

(b) For purposes of this section, the authorized officer is that person who issues the authorization or that officer's successor.

(c) A right-of-way authorization granted to another Federal agency will be limited, suspended, revoked, or terminated only with that agency's concurrence.

(d) A right-of-way authorization serving another Federal agency will be limited, suspended, revoked, or terminated only after advance notice to, and consultation with, that agency.

(e) Except when immediate suspension pursuant to paragraph (f) of this section is indicated, the authorized officer shall give the holder written notice of the grounds for suspension or revocation under paragraph (a) of this section and reasonable time to cure any noncompliance, prior to suspension or revocation pursuant to paragraph (a) of this section.

(f) Immediate suspension of a special use authorization, in whole or in part, may be required when the authorized

officer deems it necessary to protect the public health or safety or the environment. In any such case, within 48 hours of a request of the holder, the superior of the authorized officer shall arrange for an on-site review of the adverse conditions with the holder. Following this review, the superior officer shall take prompt action to affirm, modify, or cancel the suspension.

(g) The authorized officer may suspend or revoke permits or easements issued under §251.53(e) or easements issued under §251.53(l) of this subpart under the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings instituted by the Secretary under 7 CFR 1.130 through 1.151.

(h)(1) The Chief may revoke any easement granted under the provisions of the Act of October 13, 1964, 78 Stat. 1089, 16 U.S.C. 534:

(i) By consent of the owner of the easement;

(ii) By condemnation; or

(iii) Upon abandonment after a 5-year period of nonuse by the owner of the easement.

(2) Before any such easement is revoked upon abandonment, the owner of the easement shall be given notice and, upon the owner's request made within 60 days after receipt of the notice, shall be given an appeal in accordance with the provisions of 36 CFR part 214.

(i) Upon revocation or termination of a special use authorization, the holder must remove within a reasonable time the structures and improvements and shall restore the site to a condition satisfactory to the authorized officer, unless the requirement to remove structures or improvements is otherwise waived in writing or in the authorization. If the holder fails to remove the structures or improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States, but holder shall remain liable for the costs of removal and site restoration.

[45 FR 38327, June 6, 1980; 45 FR 43167, June 26, 1980, as amended at 48 FR 28639, June 23, 1983; 60 FR 45295, Aug. 30, 1995; 63 FR 65968, Nov. 30, 1998; 74 FR 68381, Dec. 24, 2009; 75 FR 14995, Mar. 26, 2010; 75 FR 24802, May 6, 2010; 78 FR 33725, June 5, 2013]